

§ 20.1304 Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.

(a) *Request for a change in representation, request for a personal hearing, or submission of additional evidence within 90 days following notification of certification and transfer of records.* An appellant and his or her representative, if any, will be granted a period of 90 days following the mailing of notice to them that an appeal has been certified to the Board for appellate review and that the appellate record has been transferred to the Board, or until the date the appellate decision is promulgated by the Board of Veterans' Appeals, whichever comes first, during which they may submit a request for a personal hearing, additional evidence, or a request for a change in representation. Any such request or additional evidence must be submitted directly to the Board and not to the agency of original jurisdiction. The date of mailing of the letter of notification will be presumed to be the same as the date of that letter for purposes of determining whether the request was timely made or the evidence was timely submitted. Any evidence which is submitted at a hearing on appeal which was requested during such period will be considered to have been received during such period, even though the hearing may be held following the expiration of the period. Any pertinent evidence submitted by the appellant or representative is subject to the requirements of paragraph (c) of this section and, if a simultaneously contested claim is involved, the requirements of paragraph (d) of this section.

(b) *Subsequent request for a change in representation, request for a personal hearing, or submission of additional evidence.* Following the expiration of the period described in paragraph (a) of this section, the Board of Veterans' Appeals will not accept a request for a change in representation, a request for a personal hearing, or additional evidence except when the appellant demonstrates on motion that there was good cause for the delay. Examples of good cause include, but are not limited

to, illness of the appellant or the representative which precluded action during the period; death of an individual representative; illness or incapacity of an individual representative which renders it impractical for an appellant to continue with him or her as representative; withdrawal of an individual representative; the discovery of evidence that was not available prior to the expiration of the period; and delay in transfer of the appellate record to the Board which precluded timely action with respect to these matters. Such motions must be in writing and must include the name of the veteran; the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf); the applicable Department of Veterans Affairs file number; and an explanation of why the request for a change in representation, the request for a personal hearing, or the submission of additional evidence could not be accomplished in a timely manner. Such motions must be filed at the following address: Director, Administrative Service (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. Depending upon the ruling on the motion, action will be taken as follows:

(1) *Good cause not shown.* If good cause is not shown, the request for a change in representation, the request for a personal hearing, or the additional evidence submitted will be referred to the agency of original jurisdiction upon completion of the Board's action on the pending appeal without action by the Board concerning the request or additional evidence. Any personal hearing granted as a result of a request so referred or any additional evidence so referred may be treated by that agency as the basis for a reopened claim, if appropriate. If the Board denied a benefit sought in the pending appeal and any evidence so referred which was received prior to the date of the Board's decision, or testimony presented at a hearing resulting from a request for a hearing so referred, together with the evidence already of record, is subsequently found to be the basis of an allowance of that benefit, the effective date of the award will be

the same as if the benefit had been granted by the Board as a result of the appeal which was pending at the time that the hearing request or additional evidence was received.

(2) *Good cause shown.* If good cause is shown, the request for a change in representation or for a personal hearing will be honored. Any pertinent evidence submitted by the appellant or representative will be accepted, subject to the requirements of paragraph (c) of this section and, if a simultaneously contested claim is involved, the requirements of paragraph (d) of this section.

(c) *Consideration of additional evidence by agency of original jurisdiction.* Any pertinent evidence submitted by the appellant or representative which is accepted by the Board under the provisions of this section, as well as any such evidence referred to the Board by the originating agency under §19.37(b) of this chapter, must be referred to the agency of original jurisdiction for review and preparation of a Supplemental Statement of the Case unless this procedural right is waived by the appellant or representative or unless the Board determines that the benefit, or benefits, to which the evidence re-

lates may be allowed on appeal without such referral. Such waiver must be in writing or, if a hearing on appeal is conducted, formally entered on the record orally at the time of the hearing.

(d) *Simultaneously contested claims.* In simultaneously contested claims, if pertinent evidence which directly affects payment, or potential payment, of the benefit sought is submitted by any claimant and is accepted by the Board under the provisions of this section, the substance of such evidence will be mailed to each of the other claimants who will then have 60 days from the date of mailing of notice of the new evidence within which to comment upon it and/or submit additional evidence in rebuttal. The date of mailing of the letter of notification of the new evidence will be presumed to be the same as the date of that letter for purposes of determining whether such comment or evidence in rebuttal was timely submitted. No further period will be provided for response to such comment or rebuttal evidence.

(Authority: 38 U.S.C. 7104, 7105, 7105A)

[57 FR 4109, Feb. 3, 1992, as amended at 60 FR 25851, May 15, 1995; 61 FR 20453, May 7, 1996]

APPENDIX A TO PART 20—CROSS-REFERENCES

Sec.	Cross-reference	Title of cross-referenced material or comment
20.1	38 CFR 3.103(a)	Statement of policy.
20.100	38 CFR 20.306	Rule 306. Legal holidays.
20.200	38 CFR 20.201	Rule 201. Notice of Disagreement.
	38 CFR 20.202	Rule 202. Substantive Appeal.
	38 CFR 20.300–20.306	See re filing Notices of Disagreement and Substantive Appeals.
20.202	38 CFR 19.29	Statement of the Case.
	38 CFR 19.31	Supplemental Statement of the Case.
20.301	38 CFR 20.500	Rule 500. Who can file an appeal in simultaneously contested claims.
	38 CFR 20.602	Rule 602. Representation by recognized organizations.
	38 CFR 20.603	Rule 603. Representation by attorneys-at-law.
	38 CFR 20.604	Rule 604. Representation by agents.
	38 CFR 20.605	Rule 605. Other persons as representative.
20.302	38 CFR 20.501	Rule 501. Time limits for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case in simultaneously contested claims.
20.303	38 CFR 20.304	Rule 304. Extension of time for filing a Substantive Appeal in simultaneously contested claims.
20.305	38 CFR 20.503	Rule 503. Legal holidays.
20.400	38 CFR 19.50–19.53	See also re administrative appeals.
20.401	38 CFR 20.302–20.306	See re time limits for perfecting an appeal.
	38 CFR 20.501, 20.503	See re time limits for perfecting an appeal in simultaneously contested claims.
20.500	38 CFR 20.713	Rule 713. Hearings in simultaneously contested claims.
20.501	38 CFR 20.305	Rule 305. Computation of time limit for filing.
	38 CFR 20.306	Rule 306. Legal holidays.
	38 CFR 20.713	Rule 713. Hearings in simultaneously contested claims.
20.502	38 CFR 20.305	Rule 305. Computation of time limit for filing.
	38 CFR 20.306	Rule 306. Legal holidays.
	38 CFR 20.713	Rule 713. Hearings in simultaneously contested claims.
20.503	38 CFR 20.713	Rule 713. Hearings in simultaneously contested claims.
20.504	38 CFR 20.713	Rule 713. Hearings in simultaneously contested claims.
20.600	38 CFR 14.626 et seq	See also re representation.
	38 CFR 20.602	Rule 602. Representation by recognized organizations.
	38 CFR 20.603	Rule 603. Representation by attorneys-at-law.
	38 CFR 20.604	Rule 604. Representation by agents.
	38 CFR 20.605	Rule 605. Other persons as representative.
20.602	38 CFR 20.628	Recognition of organizations.
	38 CFR 14.631	Powers of attorney.
	38 CFR 20.100	Rule 100. Name, business hours, and mailing address of the Board.
	38 CFR 20.607	Rule 607. Revocation of a representative's authority to act.
	38 CFR 20.608	Rule 608. Withdrawal of services by a representative.
	38 CFR 20.609	Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.
	38 CFR 20.610	Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.
20.603	38 CFR 14.629	Requirements for accreditation of representatives, agents, and attorneys.
	38 CFR 14.631	Powers of attorney.

APPENDIX A TO PART 20—CROSS-REFERENCES—Continued

Sec.	Cross-reference	Title of cross-referenced material or comment
20.604	38 CFR 20.100 38 CFR 20.606 38 CFR 20.607 38 CFR 20.608 38 CFR 20.609 38 CFR 20.610 38 CFR 14.631 38 CFR 20.100 38 CFR 20.607 38 CFR 20.608 38 CFR 20.609 38 CFR 20.610	Rule 100. Name, business hours, and mailing address of the Board. Rule 606. Legal interns, law students and paralegals. Rule 607. Revocation of a representative's authority to act. Rule 608. Withdrawal of services by a representative. Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals. Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals. Powers of attorney. Rule 100. Name, business hours, and mailing address of the Board. Rule 607. Revocation of a representative's authority to act. Rule 608. Withdrawal of services by a representative. Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals. Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals. Authorization for a particular claim.
20.605	38 CFR 14.630 38 CFR 14.631 38 CFR 20.100 38 CFR 20.607 38 CFR 20.608 38 CFR 20.609 38 CFR 20.610	Powers of attorney. Rule 100. Name, business hours, and mailing address of the Board. Rule 607. Revocation of a representative's authority to act. Rule 608. Withdrawal of services by a representative. Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals. Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.
20.606	38 CFR 20.603 38 CFR 14.631(d) 38 CFR 14.629 38 CFR 20.603 38 CFR 20.604 38 CFR 20.606 38 CFR 20.610	Rule 603. Representation by attorneys-at-law. See also re revocation of powers of attorney. Requirements for accreditation of representatives, agents, and attorneys. Rule 603. Representation by attorneys-at-law. Rule 604. Representation by agents. Rule 606. Legal interns, law students and paralegals. Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.
20.607	38 CFR 14.631(d) 38 CFR 14.629 38 CFR 20.603 38 CFR 20.604 38 CFR 20.606 38 CFR 20.610	See also re revocation of powers of attorney. Requirements for accreditation of representatives, agents, and attorneys. Rule 603. Representation by attorneys-at-law. Rule 604. Representation by agents. Rule 606. Legal interns, law students and paralegals. Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.
20.609	38 CFR 20.603 38 CFR 14.631(d) 38 CFR 14.629 38 CFR 20.603 38 CFR 20.604 38 CFR 20.606 38 CFR 20.610	Rule 603. Representation by attorneys-at-law. Rule 604. Representation by agents. Rule 606. Legal interns, law students and paralegals. Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.
20.610	38 CFR 20.609 38 CFR 1.525(d), 14.631(e) 38 CFR 20.710 38 CFR 20.704	Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals. See also re continuation of authority conferred by powers of attorney upon the death of a claimant. Rule 710. Witnesses at hearings. Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs facilities.
20.611	38 CFR 20.713 38 CFR 20.701 38 CFR 20.702	Rule 713. Hearings in simultaneously contested claims. Rule 201. Notice of Disagreement. Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.
20.703	38 CFR 20.713 38 CFR 20.701 38 CFR 20.702	Rule 713. Hearings in simultaneously contested claims. Rule 201. Notice of Disagreement. Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.
20.704	38 CFR 20.713 38 CFR 20.701 38 CFR 20.702	Rule 713. Hearings in simultaneously contested claims. Rule 201. Notice of Disagreement. Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.
20.706	38 CFR 20.700(c) 38 CFR 20.708	See also re the presiding Member's role in the conduct of hearings. Rule 708. Prehearing conference.

20.707	38 CFR 20.709	Rule 709. Procurement of additional evidence following a hearing.
20.708	38 CFR 19.11	Reconsideration Section.
20.709	38 CFR 20.606(d)	See re the prehearing conference required when a legal intern, law student, or paralegal is to participate in a hearing held before a traveling Section of the Board.
	38 CFR 19.37	Consideration of additional evidence received by the agency of original jurisdiction after an appeal has been initiated.
20.710	38 CFR 20.1304	Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.
20.711	38 CFR 20.711	Rule 711. Subpoenas.
20.713	38 CFR 2.1	See for further information on subpoenas, including action to be taken in the event of noncompliance.
	38 CFR 20.702	Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.
	38 CFR 20.704	Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs facilities.
20.715	38 CFR 20.706	Rule 706. Functions of the presiding Member.
20.800	38 CFR 20.304	Rule 304. Filing additional evidence does not extend time limit for appeal.
	38 CFR 20.709	Rule 709. Procurement of additional evidence following a hearing.
	38 CFR 20.1304	Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.
20.901	38 CFR 14.507	See re opinions of the General Counsel of the Department of Veterans Affairs.
20.903	38 CFR 20.305	Rule 305. Computation of time limit for filing.
20.1003	38 CFR 20.306	Rule 306. Legal holidays.
20.1105	38 CFR 20.700(b)	See re submission of written brief and of oral argument on audio cassette.
	38 CFR 3.156	New and material evidence.
	38 CFR 3.160(e)	Reopened claim.
	38 CFR 20.1304(b)(1)	See re request for a personal hearing or submission of additional evidence more than 60 days after a case has been certified to the Board of Veterans' Appeals as possible basis for a reopened claim.
20.1106	38 CFR 3.22(a)(2)	See re correction of a rating, after a veteran's death, based on clear and unmistakable error, in cases involving claims for benefits under the provisions of 38 U.S.C. 1318.
20.1300	38 CFR 1.500-1.527	See re the release of information from Department of Veterans Affairs claimant records.
	38 CFR 1.550-1.559	See re the release of information from Department of Veterans Affairs records other than claimant records.
	38 CFR 1.575-1.584	See re safeguarding personal information in Department of Veterans Affairs records.
20.1301	38 CFR 20.1301	Rule 1301. Disclosure of information.
20.1302	38 CFR 1.577	Access to records.
20.1304	38 CFR 20.611	Rule 611. Continuation of representation following death of a claimant or appellant.
	38 CFR 3.103(c), 20.700-20.717	See also re hearings.
	38 CFR 3.156	New and material evidence.
	38 CFR 3.160(e)	Reopened claim.
	38 CFR 20.305	Rule 305. Computation of time limit for filing.
	38 CFR 20.306	Rule 306. Legal holidays.